

UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

NETLIST, INC.,)
Plaintiff,)
vs.) Case No. 2:22-cv-294-JRG
MICRON TECHNOLOGY, INC.; MICRON) JURY TRIAL DEMANDED
SEMICONDUCTOR PRODUCTS, INC.;)
MICRON TECHNOLOGY TEXAS LLC,)
Defendants.)

**DECLARATION OF STEPHEN M. PAYNE IN SUPPORT OF
PLAINTIFF NETLIST, INC.'S MOTION FOR SUMMARY JUDGMENT ON
SAMSUNG'S DEFENSE OF PROSECUTION HISTORY ESTOPPEL**

I, Stephen M. Payne, declare as follows:

1. I am an attorney at the law firm of Irell & Manella LLP, counsel of record for Plaintiff Netlist, Inc. ("Netlist") in the above-captioned action. I am a member in good standing of the State Bar of California and have been admitted to practice *pro hac vice* before this Court in this action. I provide this declaration in support of Netlist, Inc.'s Motion for Summary Judgment on Samsung's Defense of Prosecution History Estoppel. I have personal knowledge of the facts stated herein, and could and would testify completely thereto if called as a witness in this matter.

2. Attached as **Exhibit 1** is a true and correct copy of U.S. Patent No. 7,619,912, issued November 17, 2009.

3. Attached as **Exhibit 2** is a true and correct excerpt of the Preliminary Amendment from the Prosecution History of U.S. Patent No. 7,619,912, dated June 22, 2009.

4. Attached as **Exhibit 3** is a true and correct copy of the Reexamination Response/Amendment for Serial No. 90/000,578, 95/000,579 and 95/001,339, dated January 14, 2012.

5. Attached as **Exhibit 4** is a true and correct copy of U.S. Patent No. 10,268,608, issued April 23, 2019.

6. Attached as **Exhibit 5** is a true and correct excerpt of the Specification, Claims and Abstract from the Prosecution History of U.S. Patent No. 10,268,608, dated November 21, 2017.

7. Attached as **Exhibit 6** is a true and correct excerpt of Attachment A from the Rebuttal Expert Report of Joseph C. McAlexander, dated December 21, 2023.

8. Attached as **Exhibit 7** is a true and correct excerpt of the Rebuttal Expert Report of Joseph C. McAlexander, dated December 21, 2023.

9. Attached as **Exhibit 8** is a true and correct excerpt of Exhibit B from the Opening Expert Report of Dr. William Henry Mangione-Smith, dated November 20, 2023.

10. Attached as **Exhibit 9** is a true and correct excerpt of Exhibit D from the Opening Expert Report of Dr. William Henry Mangione-Smith, dated November 20, 2023.

11. Attached as **Exhibit 10** is a true and correct excerpt of the Specification, Claims and Abstract from the Prosecution History of U.S. Patent No. 9,128,632, dated July 27, 2013.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 16, 2024, in Newport Beach, California.

By /s/ *Stephen M. Payne*
Stephen M. Payne